

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Leilani Rhodes	Team: Squad #9	CCRB Case #: 201906210	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 07/14/2019 3:40 PM	Location of Incident: [REDACTED]	Precinct: 48	18 Mo. SOL 1/14/2021	EO SOL 8/31/2021	
Date/Time CV Reported Tue, 07/16/2019 12:49 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 07/16/2019 12:49 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM David Ramirez	25053	962711	048 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Jordan Moses	24160	963174	048 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM David Ramirez	Abuse: Inside of § 87(2)(b) in the Bronx, Police Officer David Ramirez threatened to arrest § 87(2)(b) [REDACTED]	[REDACTED]
B.POM David Ramirez	Abuse: Inside of § 87(2)(b) in the Bronx, Police Officer David Ramirez threatened § 87(2)(b) with the arrest of § 87(2)(b) [REDACTED]	[REDACTED]
C.POM David Ramirez	Discourtesy: Inside of § 87(2)(b) in the Bronx, Police Officer David Ramirez spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]
D.POM David Ramirez	Abuse: Inside of § 87(2)(b) in the Bronx, Police Officer David Ramirez threatened to notify Administration for Children's Services.	[REDACTED]
E.POM David Ramirez	Abuse: Inside of § 87(2)(b) in the Bronx, Police Officer David Ramirez threatened to remove § 87(2)(b) [REDACTED] to the hospital.	[REDACTED]
F.POM David Ramirez	Discourtesy: Outside of § 87(2)(b) in the Bronx, Police Officer David Ramirez gestured discourteously toward § 87(2)(b) [REDACTED]	[REDACTED]

Case Summary

§ 87(2)(b) filed this complaint with the CCRB via phone on July 16, 2019.

On July 14, 2019, at approximately 3:40 p.m., § 87(2)(b) got into an argument with her § 87(2)(b)-year-old son § 87(2)(b) inside § 87(2)(b) in the Bronx and decided to call 911. PO David Ramirez and PO Jordan Moses, from the 48th Precinct, responded to the location. PO Ramirez threatened to arrest § 87(2)(b) (**Allegation A– Abuse of Authority: § 87(2)(g)**). PO Ramirez threatened § 87(2)(b) with the arrest of § 87(2)(b) (**Allegation B- Abuse of Authority: § 87(2)(g)**) and told § 87(2)(b) to “Shut the fuck up” (**Allegation C - Discourtesy: § 87(2)(g)**). PO Ramirez threatened to notify Administration for Children’s Services and threatened to remove § 87(2)(b) to the hospital (**Allegation D, Allegation E – Abuse of Authority: § 87(2)(g)**). PO Ramirez allegedly made a discourteous gesture towards § 87(2)(b) outside of § 87(2)(b) (**Allegation F – Discourtesy: § 87(2)(g)**). No arrests were made, and no summonses were issued as a result of this incident.

Two body worn camera videos were received regarding this incident (Board Review 04, Board Review 16).

Findings and Recommendations

Allegation (A) – Abuse of Authority: Inside of § 87(2)(b) in the Bronx, Police Officer David Ramirez threatened to arrest § 87(2)(b)

Allegation (B) – Abuse of Authority: Inside of § 87(2)(b) in the Bronx, Police Officer David Ramirez threatened § 87(2)(b) with the arrest of § 87(2)(b)

PO Moses’ BWC footage, located in IA #49, begins with officers arriving to § 87(2)(b) apartment. At 58 seconds into the video, § 87(2)(b) points to a section of a door and states that her son caused that damage “last time.” She then walks to another room and states that her son took the door off the hinges and that the door to his room is “split.” § 87(2)(b) who is now present, states that § 87(2)(b) caused all the damage. (Board Review 16)

At 2:45 into PO Ramirez’s BWC footage, located in IA #48, § 87(2)(b) explains that his room looks the way it does because § 87(2)(b) removed the base to his bed. At 6:25 into the video, PO Ramirez states, “If you guys start going back and forth, and we do have to come back, then we’re going to have a problem, and everybody is going to start getting arrested and we don’t want that.” (Board Review 04)

In § 87(2)(b) CCRB statement, she stated that she showed the officers a fist print to her bedroom door and her daughter’s bedroom door which had been “broken” off the hinges. She also stated that § 87(2)(b) showed the officers his bed which had been dismantled and claimed that she had done so. (Board Review 01)

Penal Law section 145.00 states that a person is guilty of criminal mischief in the fourth degree, a class A misdemeanor, when, having no right to do so nor any reasonable ground to believe that he or she has such right, he or she, intentionally damages property of another person. (Board Review 19)

Penal Law section 145.13 defines “property of another” as all property in which another person has an ownership interest, whether or not a person who damages such property, or any other person, may also have an interest in such property. (Board Review 19)

§ 87(2)(g)

Allegation (C)– Discourtesy: Inside of § 87(2)(b) in the Bronx, Police Officer David Ramirez spoke discourteously to § 87(2)(b)

It is undisputed that PO David Ramirez used profanity towards § 87(2)(b)

§ 87(2)(b) stated that she and PO Ramirez began going back and forth as she was explaining her rights and duties as a parent. PO Ramirez responded by saying, “Shut the fuck up.”

PO Ramirez stated that § 87(2)(b) used profanity against him after becoming upset that he and PO Moses would not remove § 87(2)(b) from her residence. As a result, he told § 87(2)(b) “Bring it the fuck down. I don’t know who the fuck you think you are.” When asked if there was any reason profanity was used against § 87(2)(b) PO Ramirez stated, “Um no specific reason, just the heat of the moment.” He said that he did not tell § 87(2)(b) to “Shut the fuck up” or use any additional profanity towards her.

At 7:58 in PO Ramirez’s body worn camera video, PO Ramirez states, “First of all, I’m gonna ask you to bring it the fuck down.” At 8:08 in the video, PO Ramirez states, “I don’t give a damn who the fuck you are.”

Whenever a civilian refuses to comply with a direct order issued by an officer in the street in the presence of other civilians, the potential exists that the refusal will encourage others to do likewise, thereby possibly igniting the crowd and converting what had been a benign street situation into a potentially dangerous and explosive one. When a police officer uses an otherwise impolite word during a stressful street encounter where that officer is attempting to maintain control of the situation, the officer’s verbal slip does not rise to the level of actionable misconduct. DCT Case #79627/04 (Board Review 18). In DCT Case #2018-18951, the trial commissioner held that the gratuitous use of the word “fuck” when addressing a civilian is unprofessional and constitutes misconduct (Board Review 06).

§ 87(2)(g)

Allegation (D) – Abuse of Authority: Inside of § 87(2)(b) in the Bronx, Police Officer David Ramirez threatened to notify Administration for Children's Services.

Allegation (E) – Abuse of Authority: Inside of § 87(2)(b) in the Bronx, Police Officer David Ramirez threatened to remove § 87(2)(b) to the hospital.

It is undisputed that § 87(2)(b) § 87(2)(b)-year-old daughter § 87(2)(b) was in the apartment during the incident.

At 2:38 into PO Ramirez’s body worn camera video, located in IA #48, § 87(2)(b) informs the officers that his mother suffers from bipolar disorder. At 5:46 into the video, § 87(2)(b) yells toward § 87(2)(b) “I can conduct a late abortion in life!” At 6:51 in the video, § 87(2)(b) states, “By right, I birthed him, whether the law wants to acknowledge that or not, I have the right to take him out of this world because I birthed him into this world.” At 7:09 in the video, § 87(2)(b) states, “If he comes to my house, and he disrespects me, [I’m going to] fucking talk to his ass. [I’m going to] whoop his black ass.” At 8:04, PO Ramirez states, “[I’m going to] call ACS, and you have a daughter, right?” At 8:22 in the video, PO Ramirez states, “I can send you to the hospital. Matter a fact, let’s take you to the hospital” (Board Review 04).

Patrol Guide Procedure 215-03 outlines the emergency removal or investigation and reporting of abused, neglected, or maltreated children. It defines an abused child as a child less than 18 years of age whose parent or person legally responsible for his care: inflicts or allows to be inflicted upon such child, physical injury by other than accidental means which causes a substantial risk of death.” It instructs officers to remove a child from the home and notify ACS, upon making a reasonable determination that a child has been, is believed to be, or may be abused, neglected, or maltreated (Board Review 13).

Patrol Guide Procedure 221-13 states that if a uniformed member of the service reasonably believes that a person who is apparently mentally ill or emotionally disturbed and the person is conducting himself in a manner likely to result in a serious injury to himself or others, they may take them into protective custody (Board Review 05).

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Allegation (F) – Discourtesy: Outside of § 87(2)(b) in the Bronx, Police Officer David Ramirez gestured discourteously toward § 87(2)(b)

§ 87(2)(b) stated that the police vehicle was parked in front of a green store, diagonally to the right of the entrance to § 87(2)(b) building. PO Ramirez walked to the driver’s side of the vehicle, opened the door, and used two hands to make a heart shape before he entered the vehicle. § 87(2)(b) mimicked the gesture, making a heart shape with both of her hands in which her thumbs connected to make the bottom of the heart, and the rest of her fingers made the top of the

heart. PO Ramirez did not say anything as he made the gesture. § 87(2)(b) described his facial expression as “smug.” § 87(2)(b) stated that she was not sure if the shape was meant to be a heart, but it appeared to be one. She stated that PO Ramirez held the gesture for a few seconds. She perceived the gesture as a sarcastic, antagonizing response to the incident, and not as a sexual gesture. § 87(2)(b) stated that PO Ramirez’s partner was getting into the police vehicle at the time PO Ramirez made the gesture, and that it is likely he saw the gesture. After making the gesture, PO Ramirez got into the driver’s seat and drove away (Board Review 01).

PO Ramirez stated that he never made any physical gestures towards § 87(2)(b). The undersigned mimicked the heart shaped gesture during the interview to ensure that PO Ramirez understood what was being alleged. PO Ramirez responded by chuckling, stating that he did not do the alleged action. PO Ramirez stated that PO Moses did not make the gesture either and § 87(2)(b) never complained that the gesture was made towards her (Board Review 02).

PO Moses stated that he did not recall if PO Ramirez made that gesture towards § 87(2)(b). He asserted that if PO Ramirez was the operator of the vehicle, § 87(2)(b) would not have been able to see the gesture because he would have needed to walk around the vehicle to get to the driver’s side (Board Review 03).

The officers had already turned their body worn cameras off because the incident had ended, therefore the gesture was not captured on video.

The following CCRB cases reveal a pattern of similar allegations made against PO Ramirez. In CCRB case § 87(2)(b) it was alleged that PO Ramirez made sexually suggestive comments about § 87(2)(b) girlfriend, § 87(2)(b), while reviewing the BWC footage of § 87(2)(b) arrest. The Board closed the allegation as substantiated and recommended charges. In CCRB case § 87(2)(b) PO Ramirez interacted with § 87(2)(b) in the vicinity of his home, informing him that he could not park his vehicle where he intended to. PO Ramirez allegedly told § 87(2)(b) that he had a Christmas gift for him, which he described as “a hug, a heart, and a kiss.” PO Ramirez then told § 87(2)(b) over the loudspeaker of the police vehicle, “The NYPD loves you.” These statements were caught on video. The Board closed the allegation as substantiated and recommended charges. In CCRB § 87(2)(b) it was alleged that PO Ramirez blew a kiss at § 87(2)(b). The Board closed the allegation as substantiated and recommended charges. In CCRB case § 87(2)(b) it was alleged that PO Ramirez drove by § 87(2)(b) as he walked down the street, and told him, “I love you, bro,” over the loudspeaker, which was also captured on video. The Board closed the allegation as substantiated and recommended charges. A summary of these cases is noted in the CCRB Executive Director’s Critical Incident Report (Board Review 15).

Officers are to “maintain a higher standard of integrity than is generally expected of others because so much is expected of” them, and to “value human life, respect the dignity of each individual and render services with courtesy and civility” Patrol Guide Procedure 200-02 (Board Review 12).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first complaint to which § 87(2)(b) has been a party (Board Review 08).
- PO Moses has been a member of service for three years and has been a subject in three CCRB complaints and six allegations, none of which were substantiated.
- PO Ramirez has been a member of service for three years and has been a subject in 13 CCRB complaints and 45 allegations, of which six were substantiated:
 - CCRB 201904950 involved a substantiated allegation of sexual misconduct. The Board recommended charges and the NYPD has not yet imposed discipline.
 - CCRB 201901824 involved substantiated allegations of a threat of arrest and a discourteous action. The Board recommended charges and the NYPD has not yet imposed discipline.
 - CCRB 201900868 involved a substantiated allegation of a discourteous action. The Board recommended charges and the NYPD has not yet imposed discipline.
 - CCRB 201809895 involved substantiated allegation of sexual misconduct and improper use of a body worn camera. The Board recommended charges and the NYPD has not yet imposed discipline.
 - § 87(2)(g)

Mediation, Civil and Criminal Histories

- On August 14, 2019 this case was sent to mediation and on August 27, 2019 the case was returned to investigation as the complaint was no longer eligible for mediation.
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (Board Review 07).
- As of January 27, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed regarding this complaint (Board Review 09).

Squad No.: _____

Investigator: _____

Signature	Print Title & Name	Date
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Squad Leader: _____

Signature	Print Title & Name	Date
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Reviewer:

Signature

Print Title & Name

Date